

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____ RONNIE JONES, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	
)	CIVIL ACTION
CITY OF BOSTON, ET AL.,)	NO. 05-11832-GAO
)	
Defendants.)	
)	
)	
)	
_____)	

**DECLARATION OF ERIC HEINING
IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Eric Heining, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I am an attorney licensed to practice in the Courts of the Commonwealth of Massachusetts and in this Court.

2. I am associated with Bingham McCutchen LLP, which is counsel to the Plaintiffs in connection with the above-captioned litigation (the "Action").

3. I make this declaration in support of the motion for partial summary judgment filed on September 1, 2011 by the Plaintiffs (the "Motion").

4. I make this declaration based on my personal knowledge of the relevant facts and my review of the relevant documents.

Part A: Contracts and Related Documents

5. Annexed hereto as exhibit A1 collectively are excerpts from a true and correct copy of a Collective Bargaining Agreement between the Boston Police Patrolmen's Association, Inc. and the City of Boston, Effective January 1, 1999, as produced in discovery in this Action.

6. Annexed hereto as Exhibit A2 is a true and correct copy of an arbitration award dated March 4, 1999 and related memorandums of agreement, as produced in discovery in this Action.

7. Annexed hereto as Exhibit A3 is a true and correct copy of an arbitration award dated May 20, 1999, as produced in discovery in this Action.

8. Annexed hereto as Exhibit A4 is a true and correct copy of an arbitration award dated June 1, 2000, as produced in discovery in this Action.

9. Annexed hereto as exhibit A5 collectively are excerpts from a true and correct copy of a Collective Bargaining Agreement between the City of Boston and the Boston Police Patrolmen's Association, Inc., dated July 1, 2002 – June 30, 2006, as produced in discovery in this Action.

Part B: Other Documents

10. Annexed hereto as Exhibit B1 is a true and correct copy of a BPD personnel order concerning Plaintiff Beckers, as produced in discovery in this Action.

11. Annexed hereto as Exhibit B2 is a true and correct copy of a BPD personnel order concerning Plaintiff Bridgeforth, as produced in discovery in this Action.

12. Annexed hereto as Exhibit B3 is a true and correct copy of written correspondence from the BPD to Plaintiff Bristow dated April 4, 2003, as produced in discovery in this Action.

13. Annexed hereto as Exhibit B4 is a true and correct copy of written correspondence from the BPD to Plaintiff Bristow dated December 3, 2002, as produced in discovery in this Action.

14. Annexed hereto as Exhibit B5 is a true and correct copy of a BPD personnel order concerning Plaintiff Harris, as produced in discovery in this Action.

15. Annexed hereto as Exhibit B6 is a true and correct copy of a BPD personnel order concerning Plaintiff Jones, as produced in discovery in this Action.

16. Annexed hereto as Exhibit B7 is a true and correct copy of a BPD personnel order concerning Plaintiff Washington, as produced in discovery in this Action.

17. Annexed hereto as Exhibit B8 collectively are excerpts from a true and correct copy of BPD Rule 111 Substance Abuse Policy, dated December 11, 1998, as produced in discovery in this Action.

18. Annexed hereto as Exhibit B9 is a true and correct copy of a BPD personnel order concerning Plaintiff Downing, as produced in discovery in this Action.

19. Annexed hereto as Exhibit B10 is a true and correct copy of a BPD Confidential Memorandum dated June 22, 2005, as produced in discovery in this Action.

20. Annexed hereto as Exhibit B11 is a true and correct copy of a BPD personnel order concerning Plaintiff Couch, as produced in discovery in this Action.

21. Annexed hereto as Exhibit B12 is a true and correct copy of a document entitled “Psychomedics Hair Testing Procedures,” as produced in discovery in this Action.

22. Annexed hereto as Exhibit B13 is a true and correct copy of a BPD personnel order concerning Plaintiff Bridgeforth, as produced in discovery in this Action.

Part C: Pleadings and Discovery

23. Annexed hereto as Exhibit C1 is a true and correct copy of the First Amended And Supplemental Complaint And Jury Demand (the “Amended Complaint”), as filed by Plaintiffs in this Action on April 7, 2006.

24. Annexed hereto as Exhibit C2 is a true and correct copy of Defendants' Answer to the Amended Complaint, as filed in this Action on September 25, 2006.

25. Annexed hereto as Exhibit C3 is a true and correct copy of excerpts from Defendants' written responses to the requests for admissions propounded by Plaintiffs in this Action dated July 8, 2011.

26. Annexed hereto as Exhibit C4 is a true and correct copy of excerpts from Defendants' Daubert motion to exclude the testimony of Sharon Kelly, Ph.D., as filed in this Action on August 28, 2009.

Part D: Deposition Transcripts

27. Annexed hereto as Exhibit D1 collectively are excerpts from a true and correct copy of the transcript of the deposition of Thomas Cairns in connection with this Action on October 2, 2008.

28. Annexed hereto as Exhibit D2 collectively are excerpts from a true and correct copy of the transcript of the deposition of Dr. Kathleen Lundquist in connection with this Action on June 23, 2009.

Part E: Expert Reports

29. Annexed hereto as Exhibit E1 is a true and correct copy of the Expert Report of Dr. Kathleen Lundquist, as submitted by Defendants in this Action.

30. Annexed hereto as Exhibit E2 is a true and correct copy of the Rebuttal Expert Report of Dr. Kathleen Lundquist, as submitted by Defendants in this Action.

31. Annexed hereto as Exhibit E3 is a true and correct copy of the Expert Report of Sharon Kelly, Ph.D., as submitted by Plaintiffs in this Action.

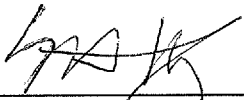
32. Annexed hereto as Exhibit E4 is a true and correct copy of the Rebuttal Report of Sharon Kelly, Ph.D., as submitted by Plaintiffs in this Action.

33. Annexed hereto as Exhibit E5 is a true and correct copy of the Reply Report of Sharon Kelly, Ph.D., as submitted by Plaintiffs in this Action.

Part F: Authority

34. Annexed hereto as Exhibit F1 is the Third Circuit's 2010 decision in Stagi, et al. v. Nat'l Railroad Passenger Corp., which was not selected for publication in the Federal Reporter.

I declare under penalty of perjury that the foregoing is true and correct. Executed at
Boston, Massachusetts on September 1, 2011.



Eric Heining

CERTIFICATE OF SERVICE

I, Eric Heining, Esq., hereby certify that a true and correct copy of the foregoing was filed through the ECF System and sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on September 1, 2011.

/s/ Eric Heining
Eric Heining, Esq.